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10 Attorneys for Defendants  
11 RED HAT, INC. and RED HAT MIDDLEWARE, LLC.

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

FIRESTAR SOFTWARE, INC.,

Plaintiff,

v.

RED HAT, INC., et al.,

Defendants.

Case No. C 07-80204 MISC MMC (EMC)

**STIPULATION AND [PROPOSED]  
ORDER RESCHEDULING HEARING ON  
THOUGHT, INC.'S MOTION TO QUASH  
THIRD PARTY SUBPOENA, OR IN THE  
ALTERNATIVE, FOR A PROTECTIVE  
ORDER**

1 The Parties hereby stipulate that the hearing on Thought, Inc.'s motion to quash third party  
2 subpoena, or in the alternative, for a protective order be rescheduled to November 7, 2007, at 10:30  
3 a.m.

4 Dated: October 15, 2007

Respectfully submitted,

HARVEY SISKIND LLP

By: 

Seth I. Appel

Attorneys for Defendants

RED HAT, INC. and RED HAT MIDDLEWARE, LLC.

JOHN JASON GENTRY MULLINS

By: 

John Jason Gentry Mullins

Attorneys for Third Party

THOUGHT, INC.

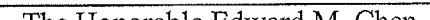
16 **[PROPOSED] ORDER**

17 The Parties have stipulated that the hearing on Thought, Inc.'s motion to quash third party  
18 subpoena, or in the alternative, for a protective order be rescheduled to November 7, 2007, at 10:30  
19 a.m.

20 Good cause appearing therefore:

21 IT IS SO ORDERED.

22 Dated:

23   
24 The Honorable Edward M. Chen  
25 United States District Court Judge  
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**PROOF OF SERVICE**

The undersigned declares: I am a resident of the United States and am employed in the City and County of San Francisco, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 4 Embarcadero Center, 39<sup>th</sup> Floor, San Francisco, CA 94111.

On the date stated below, I served the following documents:

• **STIPULATION AND [PROPOSED] ORDER RESCHEDULING HEARING ON THOUGHT, INC.'S MOTION TO QUASH THIRD PARTY SUBPOENA, OR IN THE ALTERNATIVE, FOR A PROTECTIVE ORDER**

by placing a true copy thereof enclosed in a sealed envelope and served in the manner described below to the interested parties herein and addressed to:

John Jason Gentry Mullins, Esq.  
5 Third Street, Suite 815  
San Francisco, CA 94103  
Counsel for Thought, Inc.

Allen F. Gardner, Esq.  
Michael E. Jones, Esq.  
Potter Minton, A Professional Corporation  
P.O. Box 359  
Tyler, TX 75710  
Counsel for Red Hat, Inc.  
and Red Hat Middleware LLC

Melvin R. Wilcox, III  
Smead, Anderson & Dunn  
2110 Horseshoe Lane  
P.O. Box 2243  
Longview, TX 75606  
Counsel for FireStar Software, Inc.

William H. Boice, Esq.  
Kilpatrick Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, GA 30309-4530  
Counsel for Red Hat, Inc.  
and Red Hat Middleware LLC

Brian J. McNamera, Esq.  
Foley & Lardner  
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Washington, DC 20007  
Counsel for FireStar Software, Inc.

Steven Gardner, Esq.  
Steven D. Moore, Esq.  
John C. Alemanni, Esq.  
Jon R. Pierce, Esq.  
Kilpatrick Stockton LLP  
1001 West 4<sup>th</sup> Street  
Winston-Salem, NC 27104  
Counsel for Red Hat, Inc.  
and Red Hat Middleware LLC

**X**

**MAIL:** I caused such envelope(s) to be deposited in the mail at my business address, with postage thereon fully prepaid, addressed to the addressee(s) designated. I am readily familiar with the business practice of collecting and processing correspondence to be deposited with the United States Postal Service on that same day in the ordinary course of business.

1 \_\_\_\_\_  
2 **FEDERAL EXPRESS – OVERNIGHT DELIVERY:** I caused such envelope to be  
3 deposited with the Federal Express Office prior to the cut-off time for next day  
4 delivery with a shipping label properly filled out with delivery to be made to the  
5 addressee designated.

6 \_\_\_\_\_  
7 **HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the  
8 addressee(s) designated.

9 \_\_\_\_\_  
10 **VIA FAX:** The facsimile machine I used complied with California Rules of Court,  
11 Rule 2003, and no error was reported by the machine. Pursuant to California Rules of  
12 Court, Rule 2006(d), I caused the machine to print a transmission record of the  
13 transmission, a copy of which is attached to this declaration.

14   X    
15 **(FEDERAL):** I declare that I am employed by the office of a member of the bar of  
16 this court at whose direction the service was made.

17 \_\_\_\_\_  
18 **(STATE):** I declare under penalty of perjury under the laws of the State of California  
19 that the foregoing is true and correct.

20 Executed on October 15, 2007 at San Francisco, California.

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